

<p style="text-align: right;">Page 13</p> <p>1 Associates and Marine Safety Consultants?</p> <p>2 MR. REGAN: I object generally to the</p> <p>3 relevancy of this. He is here today to be deposed</p> <p>4 in his capacity as an expert witness and his</p> <p>5 opinions on the issues of negligence and</p> <p>6 seaworthiness and contributory negligence, and the</p> <p>7 fact that he might incidentally have other personal</p> <p>8 knowledge of either the investigation or the areas</p> <p>9 you have been asking about doesn't change things.</p> <p>10 That is not the reason why he is here. I'm going to</p> <p>11 object on the form of relevancy to all of these</p> <p>12 questions that don't have directly to do with his</p> <p>13 opinion.</p> <p>14 MR. ANDERSON: Read the question back.</p> <p>15 *[The record was read.]</p> <p>16 MR. REGAN: You can answer the question.</p> <p>17 A Maritime Claims Associates is a limited liability</p> <p>18 corporation involved in investigating accidents in</p> <p>19 the maritime community. Marine Safety Consultants</p> <p>20 is a corporation in the Commonwealth of</p> <p>21 Massachusetts engaged in conducting surveys and</p> <p>22 accident investigations. Marine Safety Consultants</p> <p>23 provides work space and management oversight of</p> <p>24 Maritime Claims Associates' activities.</p>	<p style="text-align: right;">Page 15</p> <p>1 office, based on the amount of salary paid to the</p> <p>2 Maritime Claims Associates' staff.</p> <p>3 Q Who pays the salaries to Maritime Claims Associates'</p> <p>4 staff?</p> <p>5 A Marine Safety Consultants does. We provide the</p> <p>6 management oversight for Maritime Claims Associates.</p> <p>7 Q It's located, both Maritime Claims Associates and</p> <p>8 Marine Safety Consultants are all located within one</p> <p>9 office space?</p> <p>10 A That's correct, one building.</p> <p>11 Q Do those two companies share secretarial work,</p> <p>12 things of that nature?</p> <p>13 A Yes.</p> <p>14 Q Mr. Sweeney is the, does he work for Marine Safety</p> <p>15 Consultants, Mr. Sweeney?</p> <p>16 A On occasion he does, but he is basically a Maritime</p> <p>17 Claims Associates' employee.</p> <p>18 Q Does he have any support staff that is employed by</p> <p>19 Maritime Claims Associates?</p> <p>20 A Again a percentage of the salary or wages or</p> <p>21 expenses incurred by the oversight provided by</p> <p>22 Marine Safety Consultants is paid from the Maritime</p> <p>23 Claims Associates' account to Marine Safety</p> <p>24 Consultants on a management fee basis, and that's</p>
<p style="text-align: right;">Page 14</p> <p>1 Q With respect to when Maritime Claims Associates</p> <p>2 bills somebody for work performed, is there a</p> <p>3 certain percent that goes to Marine Safety</p> <p>4 Consultants or is there a monthly fee that goes to</p> <p>5 Marine Safety Consultants? How does that work?</p> <p>6 A It's a monthly fee based on the level of effort and</p> <p>7 the associated expenses incurred by Marine Safety</p> <p>8 Consultants as computed by our bookkeeping and</p> <p>9 accounting department.</p> <p>10 Q So a file might get transferred from Marine Safety</p> <p>11 Consultants to Maritime Claims Associates. If</p> <p>12 Marine Safety Consultants Associates continued to do</p> <p>13 a lot of work on that file, billings would be</p> <p>14 higher; if they do minimal work on the file, the</p> <p>15 work coming to Marine Safety Consultants would be</p> <p>16 lower?</p> <p>17 MR. REGAN: Objection to the question.</p> <p>18 A I don't think of it in those terms. That's not the</p> <p>19 rationale on the basis for the management fee</p> <p>20 between Marine Safety Consultants and Maritime</p> <p>21 Claims Associates.</p> <p>22 Q What is the basis?</p> <p>23 A The basis of the amount of square footage of space</p> <p>24 that Maritime Claims Associates occupies in our</p>	<p style="text-align: right;">Page 16</p> <p>1 all calculated on the percentage of the level of</p> <p>2 effort that the staff provides the Maritime Claims</p> <p>3 Associates' files in any given month.</p> <p>4 Q But Mr. Sweeney's basically a Maritime Claims</p> <p>5 Associates employee?</p> <p>6 A Yes.</p> <p>7 Q Is there anyone else in your offices at 26 Water</p> <p>8 Street, the main office?</p> <p>9 A Yes.</p> <p>10 Q Is there anyone else at 26 Water Street who is</p> <p>11 primarily a Maritime Claims Associates employee?</p> <p>12 A Not primarily, no.</p> <p>13 Q There may be employees of Marine Safety Consultants</p> <p>14 who from time to time provide services on different</p> <p>15 files for Mr. Sweeney, but they primarily work for</p> <p>16 Marine Safety Consultants, is that correct?</p> <p>17 A Yes.</p> <p>18 Q At some point when the request came in for an</p> <p>19 accident investigation -- What does an accident</p> <p>20 investigation entail?</p> <p>21 A It entails conducting an investigation into the</p> <p>22 facts and circumstances by interviewing the</p> <p>23 individual who was involved in that accident,</p> <p>24 interviewing witnesses, conducting an on-board</p>

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<p style="text-align: right;">Page 17</p> <p>1 inspection and obtaining medical records to</p> <p>2 determine the extent of the injury and then</p> <p>3 corresponding with the client to report the facts</p> <p>4 and circumstances, the who, what, why, when, where</p> <p>5 and how of the accident to the appropriate party.</p> <p>6 Q Do you know who the appropriate party was in</p> <p>7 connection with Mr. Aguiar's accident?</p> <p>8 A Other than you suggested in this case it was</p> <p>9 Sunderland Marine, I have no direct memory if it was</p> <p>10 Sunderland Marine or somebody else.</p> <p>11 Q Would the appropriate party in connection with the</p> <p>12 commercial fishing industry occurring in New</p> <p>13 Bedford, would the appropriate party be an insurance</p> <p>14 company?</p> <p>15 A That would be one of the entities, yes.</p> <p>16 Q Who would be the other entity?</p> <p>17 A The boat owners.</p> <p>18 Q Are there any cases that you are working on now</p> <p>19 where the boat owners, after the deductible was</p> <p>20 paid, continue to make the payments for medical</p> <p>21 bills and so forth in New Bedford in the commercial</p> <p>22 fishing industry?</p> <p>23 A Make the payments. There are several instances</p> <p>24 where the boat owners are requested or required or</p>	<p style="text-align: right;">Page 19</p> <p>1 circumstances and the client. Every client has</p> <p>2 their own method of handling such matters.</p> <p>3 Q When a marine insurer contacts Marine Safety</p> <p>4 Consultants and says we want you to do an accident</p> <p>5 investigation, Joe Smith got hurt on this fishing</p> <p>6 vessel and it's coming into port tomorrow, do you</p> <p>7 understand that the request for an investigation</p> <p>8 also includes a request to pay medical bills, do</p> <p>9 maintenance, things of that nature?</p> <p>10 A Not automatically.</p> <p>11 Q At some point in connection with Mr. Aguiar was</p> <p>12 there a separate request to pay medical bills and</p> <p>13 things of that nature?</p> <p>14 A I believe that there was some involvement in payment</p> <p>15 of Mr. Aguiar's medical bills or submission of</p> <p>16 Mr. Aguiar's medical bills to a third party medical</p> <p>17 bill review office to make those payments. Whether</p> <p>18 or not Marine Safety Consultants made any payments</p> <p>19 from any claim account on behalf of anybody, I don't</p> <p>20 recall.</p> <p>21 Q Do you know why at some point Mr. Sweeney seemed to</p> <p>22 take over the file at least in terms of medical</p> <p>23 bills, maintenance payments, advances, things of</p> <p>24 that nature?</p>
<p style="text-align: right;">Page 18</p> <p>1 do in fact make the payments; but whether they make</p> <p>2 payments or are involved in the flow of information</p> <p>3 because it's their employee, it's their risk and</p> <p>4 they have to be kept informed and involved in the</p> <p>5 process.</p> <p>6 Q Do you know if that occurred in connection with</p> <p>7 Mr. Aguiar's case?</p> <p>8 A Did what occur?</p> <p>9 Q Do you know whether the boat owners were, do you</p> <p>10 know whether the boat owners were paying Marine</p> <p>11 Safety Consultants?</p> <p>12 A I don't think so. I don't think so.</p> <p>13 Q In connection with Mr. Aguiar, you think it's most</p> <p>14 likely that it was whomever was the marine insurer</p> <p>15 of FISHING VESSEL MY WAY?</p> <p>16 A Eventually, yes.</p> <p>17 Q After the deductible was paid?</p> <p>18 A Yes.</p> <p>19 Q Does a request for an investigation, does that</p> <p>20 include paying medical bills, paying maintenance and</p> <p>21 things of that nature, or is that a different type</p> <p>22 of service?</p> <p>23 A That could be part of it. On a case-by-case basis.</p> <p>24 It's not always the way. It depends on the</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. REGAN: Objection. Go ahead.</p> <p>2 A Yes.</p> <p>3 Q Why was that?</p> <p>4 A Because Russ DuBois left the company and moved.</p> <p>5 Q Okay. Got it. Getting back to your involvement in</p> <p>6 this case chronologically, as you sit here today you</p> <p>7 don't actually remember the Aguiar case coming in,</p> <p>8 correct?</p> <p>9 A No, not the specific day, not the specific manner in</p> <p>10 which it came in. I have a recollection basically</p> <p>11 because I have been reviewing these documents for</p> <p>12 this case as an expert, I have a recollection that</p> <p>13 the file had been in the office and Russ had worked</p> <p>14 on it and Mr. Sweeney had worked on it.</p> <p>15 Q Okay. What was your next, your personal next</p> <p>16 involvement in the case? When I say "yours," I'm</p> <p>17 going to be, for the rest of this deposition I'm</p> <p>18 referring to you as an individual rather than your</p> <p>19 company, Marine Safety Consultants.</p> <p>20 A Sometime this past winter I was asked by Mr. Regan</p> <p>21 if I would be willing to review certain documents in</p> <p>22 order to perhaps serve as an expert witness if the</p> <p>23 case ended up in litigation and had to go to trial,</p> <p>24 if I could work with him on behalf of the boat owner</p>

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<p style="text-align: right;">Page 21</p> <p>1 to review documentary evidence and submit an opinion</p> <p>2 as to my, submit a report as to my opinion of the</p> <p>3 cause and extent of the accident.</p> <p>4 Q Was this request made by, in writing or by telephone</p> <p>5 or both?</p> <p>6 A I think by telephone.</p> <p>7 Q When did this request from Mr. Regan come in?</p> <p>8 A As I said, early in the winter of 2006.</p> <p>9 Q Would that be January? February?</p> <p>10 A January or early February, somewhere in that time.</p> <p>11 Q January or February of 2006 was your first contact</p> <p>12 with Attorney Regan, correct, in connection with</p> <p>13 this case?</p> <p>14 A I don't recall specifically. I know that's when I</p> <p>15 set up a file folder for that purpose. Whether or</p> <p>16 not I had any conversations with Attorney Regan in</p> <p>17 December of 2005 or around that period of time, I</p> <p>18 don't recall.</p> <p>19 Q But as you sit here today, do you remember any</p> <p>20 conversations with Mr. Regan in December of 2005?</p> <p>21 A As I sit here today, I don't remember specifically</p> <p>22 whether or not I had any conversations with him in</p> <p>23 2005.</p> <p>24 Q Did you personally do any work in the Aguiar case or</p>	<p style="text-align: right;">Page 23</p> <p>1 and 2006. Russ left almost two years ago.</p> <p>2 Q Your first memory after that initial contact in</p> <p>3 October of 2003, your first specific memory</p> <p>4 regarding Mr. Aguiar's case involved a telephone</p> <p>5 call from Attorney Regan sometime in January or</p> <p>6 February of 2006, is that correct?</p> <p>7 A Early telephone call or a letter or e-mail, I'm not</p> <p>8 sure how I became involved at that level.</p> <p>9 Q You brought your file with you today, correct?</p> <p>10 A Yes.</p> <p>11 Q Is there a letter in the file? Why don't you go</p> <p>12 through the file and identify what each thing is.</p> <p>13 A I do not have -- I don't have a letter of</p> <p>14 engagement, so it must have been a telephone call.</p> <p>15 MR. ANDERSON: Why don't we mark the file</p> <p>16 as Exhibit 1, and then we'll go through it and you</p> <p>17 can identify it and Mr. Regan will copy it or</p> <p>18 something, I don't know.</p> <p>19 MR. REGAN: There are two if you want to</p> <p>20 call them letters, letters from me that are cover</p> <p>21 letters to a facsimile transmission. Without waving</p> <p>22 any objection to any letters that may invoke the</p> <p>23 attorney-client privilege, I'll let those two stay</p> <p>24 in the file. I don't see any others.</p>
<p style="text-align: right;">Page 22</p> <p>1 perform any investigation or discuss it with your</p> <p>2 son Russ after that first call came in in which you</p> <p>3 received the, in which Marine Safety Consultants</p> <p>4 received the assignment to investigate and before</p> <p>5 your first conversation with Mr. Regan in January or</p> <p>6 February of 2006?</p> <p>7 A I most likely did.</p> <p>8 Q Do you have any memory of that?</p> <p>9 A Not specifically.</p> <p>10 Q Do you have any general memory, whether specific or</p> <p>11 not?</p> <p>12 A As I said, I have a general memory of talking with</p> <p>13 him about a number of cases that he was working on,</p> <p>14 and this would have been one of them.</p> <p>15 Q Do you actually have a memory of that, or you just</p> <p>16 believe you probably talked to him?</p> <p>17 A No, obviously before January of 2006 I knew about</p> <p>18 Mr. Aguiar's injury and I knew that Russ had</p> <p>19 conducted an investigation. Now how I knew that</p> <p>20 is by conversation and reviewing certain documents</p> <p>21 that he may have generated; but specifically sitting</p> <p>22 down with him and saying on or about a certain date</p> <p>23 I talked with Russ about the Aguiar case, I don't</p> <p>24 have a specific memory of that over, between 2003</p>	<p style="text-align: right;">Page 24</p> <p>1 MR. ANDERSON: Why don't we mark your</p> <p>2 entire file as Exhibit No. 1, and I'm going to go</p> <p>3 through it and identify the things, and you can make</p> <p>4 sure I'm doing it right.</p> <p>5 [Exhibit 1 marked for identification]</p> <p>6 MR. ANDERSON: I'm putting a sticker on</p> <p>7 the outside cover of this blue file.</p> <p>8 Q If we flip it over, we have reports and we've got a</p> <p>9 FedEx return where you FedExed something to</p> <p>10 Mr. Regan's office on 2-21-06, is that correct?</p> <p>11 A Yes.</p> <p>12 Q And the next document we have in here is the</p> <p>13 deposition of Joe Lima, correct?</p> <p>14 A Yes.</p> <p>15 Q Pages one through four --</p> <p>16 A One through 17.</p> <p>17 Q Let me go through it. One through four, five</p> <p>18 through eight, nine through 12.</p> <p>19 MR. REGAN: It is his complete</p> <p>20 deposition, a Minuscript with four pages per page.</p> <p>21 THE WITNESS: Do you have any coffee?</p> <p>22 Q This appears to be the entire deposition transcript</p> <p>23 of Mr. Lima, correct?</p> <p>24 A That's what I believe it is.</p>

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